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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,834

02/17/2006

Pierre Hermanus Woerlee

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

ASHFORD, TAMARA R

ART UNIT

PAPER NUMBER

4182

MAIL DATE

DELIVERY MODE

10/09/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,834	Applicant(s) WOERLEE ET AL.	
	Examiner Tamara Ashford	Art Unit 4182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.
6. Confirmation number (See MPEP § 503).

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the device for recording information on a multi layer record carrier that is operative for recording the information in multiple sessions must be shown or the feature(s) canceled from the claim(s) (see claims 4-5). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because it is replete with grammatical and punctuation errors. Examples of some of the errors are as follows: page 1 line 23, "It should be notes that the dual", should be corrected to -- It should be **noted**--; page 2 line 33 "invention comprises at least on such super session", should be corrected to -- invention comprises at least **one** such super session--; page 3 line 13 "Error Correction Code (ECC) blocks containing **dummy** data", should be corrected to -- Error Correction Code (ECC) blocks containing **dummy** data--. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application 10/562,895. Although the conflicting claims are not identical, they are not patentably distinct from each other. Claim 1 claims a “method for recording information on a multi layer record carrier, said record carrier comprising at least two information layers for storing the information, wherein the method is adapted for recording the information in multiple sessions”. Claim 2 describes the method “wherein the information of at least one session is distributed over at least two information layers”, and claim 3 further explains the information is “evenly distributed over at least two information layers”. Claim 1 of Application 10/562865, describes a “method of recording information on a recordable multi-layer record carrier having a plurality of information layers including at

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least a first information layer and a second information layer for storing information.”

Claim 1 of Application 10/562,895, further describes “the method comprising acts of: dividing data content to be recorded on the recordable multi-layer record carrier into data blocks; recording the data blocks of the data content on the recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of information layers”. All of the elements described in claims 1-5 are contained in claim 1 of 10/562,895. It is clear that claims 1-5 are a broader representation of the method described in claim 1 of the earlier application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-3 claim a method adapted for recording information on a multi layer record carrier in multiple sessions, however no steps were stated describing the method and how it is adapted for recording in multiple sessions. In addition, the claims do not show any tie to a particular apparatus or describe the transformation of any subject matter. Therefore, the claimed method does not qualify as a statutory process.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 4-5 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed device was never described or illustrated in the specification. The only written description of the device is found in the claim itself. However, this description does not set forth any distinguishing or identifying characteristics to set it apart from any conceivable device for achieving the stated result.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1-5 rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (US 6,370,091).

Regarding claim 1, Kuroda discloses a method for recording information on a “multi layer record carrier said record carrier comprising at least two information layers for storing the information” (page 1 paragraph 1, and Figs. 3A-C). The physical definition of a multi-session layout as described in the specification of the current application is that it “offers a possibility for efficient information recording while maintaining compatibility with existing DVD standards (that is, eliminate unwritten spaces)”. It goes on to say “for compatibility with DVD-ROM no empty, that is unwritten, zones are allowed on the layers of a recordable multi-session multi layer DVD” disc (page 2, paragraph 2-3). The specification also defines a super session to “include one or more layer jumps.” Therefore, the method disclosed in Kuroda is also adapted for recording the information in multiple sessions because it distributes the data in a manner that unwritten spaces are eliminated.

Regarding claims 2-3, Kuroda discloses a method wherein the information is evenly distributed over two information layers (Figs. 3A-C). Kuroda further discloses that “the invention can be also applied to a multilayer disc having three or more recording layers” (paragraph 42).

Regarding claim 4-5, Kuroda discloses a “device for recording information on a multi layer record carrier, said record carrier comprising at least two information layers for storing the information, wherein the device is operative for recording the information in multiple sessions” (claim 3, Fig 1). The device is also “operative for performing a layer jump during the recording of information when recording in at least one session” (claim 3, Figs 1).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ross (US 20030081535 A1) discloses a method of recording data to a multi-layer disc with multiple sessions.

Ishida et al. (US 5,729,525) discloses a method for recording a dual layer optical disc such that the data is recorded on the layers in an alternating pattern.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara Ashford whose telephone number is (571)270-5877. The examiner can normally be reached on Mon-Fri 7:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benny Tieu can be reached on (571)272-7490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T.A. /

/Temesghen Ghebretinsae/

Primary Examiner, Art Unit 4182